

MINUTES
SPECIAL MEETING
TOWN OF GROTON
GROTON ZONING COMMISSION
MARCH 29, 2018 – 6:30 P.M.
TOWN HALL ANNEX – COMMUNITY ROOM 1

I. ROLL CALL

Regular members present: Marquardt, Smith, Sutherland
Alternate members present: Archer
Absent: Edgerton, Hudecek, Sayer
Staff present: Jones, Zonarini, Gilot

Chairperson Sutherland called the meeting to order at 6:30 p.m. and seated Archer for Sayer.

II. PUBLIC HEARING

1. Special Permit #356, 32 West Main Street, PIN 261918410043, WDD Zone. Proposal is to add outdoor seating with alcohol service and outdoor music to an existing restaurant. Review is per Sections 6.3 and 8.3 of the Zoning Regulations. (Dan Van Kruiningen, Applicant) (Mom Jerry & Jerry, LLC, Owner)

Chairperson Sutherland read the legal notice.

Dan Van Kuiningen, Chapter One, introduced Attorney Michael Devlin, who would present the application.

Attorney Michael Devlin, 90 Paper Mill Road, Baltic, explained the proposal for two outside tables with two chairs at each table. The State of Connecticut Dept. of Transportation has approved the location within the state right-of-way. The tables will extend two feet into the sidewalk, which is 11 feet wide. There will be 9 feet width clearance for pedestrians, double the minimum required by zoning regulations. Food and alcohol will be served. Stanchions will separate the tables from the pedestrian area of the sidewalk. The Liquor Commission amended their agreement with Chapter One to allow alcohol to be served outside. The application also requested outside music. The applicants would limit the decibel level to 70 at the outside tables. The tables will be located under the awning area, and the speakers will be mounted under the awning, turned downward. Some commissioners had concerns because the windows are usually open in the summer, so the indoor music would be additional to the outdoor music. The commission asked if the decibel level has been measured yet. Mr. Devlin said no because the speakers are not being used at this time. The applicants erroneously thought they could use the speakers with the state approval until they were informed that they needed a special permit from the town.

The responsibility of monitoring the sound, the liability, and the amount room required with the stanchions were discussed.

Staff said the concerns that have been raised are about the noise; specifically, noise from inside emanating outside. He noted there is enough sidewalk clearance with the stanchions. The commission discussed the outside tables and speakers at other restaurants in the downtown area. Seats or benches are not considered outside dining, because there is no restriction on the

seating, and no table service. Staff said that with regard to the decibel level monitoring, the town does not have a decibel reader, so it would be up to the applicant.

The Chair asked for comments from the public.

The following people spoke against the application. Many of the speakers stated that they attempted to talk to the owners to resolve the noise issue, to no avail.

- Dana Hambidge, 14 Steamboat Wharf, Apartment 11, due to noise.
- Tom Bradham, 7 Gravel Street, due to noise and pedestrian traffic concerns. He provided written comments, photos and a video.
- Jeff Skinner, 131 Bridge Street, Jerome Properties owner, due to noise.
- Carol Rogers, 75 Steamboat Wharf, due to noise and disturbances.
- Horace Jones, 28 West Main Street, due to noise.
- Daniel Sperduto, 14 Steamboat Wharf, Apartment 10, due to noise.
- Judith Viadella, 7 Gravel Street, due to the noise and the speakers in particular.
- Shannon Wantz, 45 West Main Street, due to loud music consistently on weeknights at unreasonable hours.
- Alex Huong, 14 Steamboat Wharf, due to noise and lack of crowd control.
- Elizabeth Bayne, 38 West Main Street, due to noise, specifically the outdoor speakers, late at night.
- Rosemary Robinson, Ledyard, property manager for Steamboat Wharf, spoke against the application because they are losing tenants.
- Eric Burns, Jerome Properties, manager of four downtown properties, Central Hall developer, due to the narrower sidewalk area posed by the tables, the noise, and changing the character of downtown Mystic.

Horace Jones, 28 West Main Street, asked if the town has a noise ordinance. Staff said they do not.

Mr. Devlin said two tables is consistent with the character of the neighborhood and the remaining sidewalk space would still be wider than the town standard for sidewalks. Noise emanating from inside is not the subject of this hearing. The applicants withdrew the request for outside speakers.

Alex Huong, 14 Steamboat Wharf, asked if there is an eight foot emergency requirement.

Tom Bradham, 7 Gravel Street, had concerns with the space required for the tables as well as the sandwich signs used by the applicants.

Eric Burns, Jerome Properties, 36-44 West Main Street, asked if the commission could prohibit smoking from that area.

Mr. Devin clarified that the application is for the tables to be there only until 10:00 p.m. and then brought inside.

A list of the number of police responses was provided.

Dana Hambidge, 14 Steamboat Wharf, said that when she went to the Police Department to inquire about calls and dispatches, complaints constitute noise complaints, most have been noise, disturbances are fights. Police can't respond because there is no noise ordinance.

Ken Fontaine said they would withdraw the outdoor speakers and they would be willing to mitigate the bass of the music.

The public hearing was closed at 7:58 p.m.

III. CONSIDERATION OF PUBLIC HEARING

1. Special Permit #356, 32 West Main Street

The commission discussed issuing a limited permit. They discussed the character of Mystic. The commission had concerns because there were no positive comments from the residents. They noted the tightening of the sidewalk space, and the use of sandwich signs. Staff said there is not an existing special permit because this use as a restaurant predates zoning. Liquor laws determine what hours they can sell liquor. There were concerns with how to limit or restrict the bass sound from the inside music. Staff said the music is from inside the building, and cannot be regulated by the commission.

MOTION: To approve Special Permit #356, 32 West Main Street, Chapter One Restaurant, to add outdoor seating with the following conditions and findings:

Conditions:

1. The outdoor seating area shall be closed for service by 10:00 pm each evening. All tables, chairs and stanchions will be removed from the sidewalk at that time.
2. All restaurant doors and windows shall remain closed after 10:00 pm to restrict excess noise and prevent indoor music from emanating onto the street.
3. The approval is granted for three months, until the first Zoning Commission meeting in July 2018, at which time the Special Permit shall be reviewed by the Zoning Commission to determine compliance with the conditions set forth. If it is determined that the applicant has complied with the conditions of approval, the Special Permit may be extended for a term to be determined by the Zoning Commission at that time.

Findings and Reasons for Approval:

The Commission finds that this application complies with the objectives of Section 6.3 of the Zoning Regulations in that it will enhance the unique qualities of Mystic and is in keeping with the goals of the Plan of Conservation and Development.

The Commission also finds that this application complies with the special permit objectives in Section 8.3-8 of the Zoning Regulations in that it does not alter the essential characteristics of the Mystic area, does not cause traffic congestion or safety conflicts, does not conflict with the purposes of these regulations, and will not have a potential environmental impact on adjacent water bodies, including Long Island Sound.

Motion made by Smith, seconded by Sayer. Motion passed 4 - 1, 1 opposed (Marquardt).

IV. PUBLIC COMMUNICATIONS

Staff said there will be public comments accepted at the next meeting.

V. APPROVAL OF MINUTES

MOTION: To approve the minutes of February 21, 2018 as amended.

Motion made by Sayer, seconded by Archer. Motion passed unanimously.

MOTION: To approve the minutes of March 15, 2018 as written.

Motion made by Archer, seconded by Sayer. Motion passed 4-1, 1 abstention (Marquardt).

VI. OLD BUSINESS

1. Commission Workshop - Zoning Regulations Rewrite Project

Staff distributed notebooks to the commissioners to keep track of the zoning regulation rewrite. As sections are completed or finished with discussion, they will be added to the binder for the commission. Staff explained that the WRPD is not included because it has already been adopted, and it may need to be amended.

Smith said he had a change of heart on the Poquonnock Village mixed use zone. He thought they should reconsider including the section of Route 1 to the east of the Route 117 intersection. He suggested that the other commissioners drive by or walk it, and consider rezoning the area on the south side of Route 1 from the Route 117 intersection up to Vergennes Court as mixed use to encourage new development.

VII. NEW BUSINESS

1. Report of Commission - None

2. Receipt of New Applications

Staff said a special permit application was received by Elm Grove Cemetery Association for fill and excavation on their Welles Road property. They missed the deadline for an extension of their special permit by one week, so they were required to apply for a new permit. The public hearing will be scheduled for a time that agrees with Horsley Witten's schedule. Smith said he will be at the May 2nd meeting, and will out of town for the rest of May.

VIII. REPORT OF CHAIRPERSON - None

IX. REPORT OF STAFF

Staff noted that an information session regarding the Poquonnock Bridge Design District study will be held on April 30th at the Library.

X. ADJOURNMENT

Motion to adjourn at 8:36 p.m. was made by Archer, seconded by Sayer; so voted unanimously.

Susan Marquardt, Secretary
Zoning Commission

Prepared by:
Debra L. Gilot
Executive Assistant